

MAY 09 2008

Appl. No. 09/714,351
Amendment dated May 9, 2008
Supplement to Response of Feb. 4, 2008

REMARKS

After entry of the present amendment, claims 1-5 and 17 will be pending in the application. All pending claims stand rejected.

Claims 1, 2, 4 and 17 have been amended herein. Claims 6 and 16 have been canceled without prejudice.

Claim 1 has been amended, as discussed in an interview with the Examiner, to make claim 1 multiply dependent on any one of claims 2, 4, 5 or 17. Claims 2 and 4 have been amended, as discussed in an interview with the Examiner, to remove the reproduced X-ray diffractogram and ^{13}C NMR spectrum and recite references to Figures 1 and 2 in the specification. Claim 17 has been amended to recite the specific analytical method "solid state ^{13}C NMR" rather than only the expression, " ^{13}C NMR." No new matter has been added by the present amendment.

L. Statement of Substance of Examiner Interview

As required by MPEP 713.04, Applicants provide here a record of the substance of a brief telephonic interview attended by Examiner Stockton, Timothy W. Davenport (Reg. No. 47,515), in-house attorney for Applicants, and (via telephone) Patrick Birde Esq. (Kenyon & Kenyon LLP). In the interview, each of the pending claims was discussed. Examiner Stockton stated that the previous rejections under 102(b) and 112, 2nd paragraph had been overcome by the Amendment filed Feb. 7, 2008. Accordingly, the discussion during the interview related the remaining 112, 1st paragraph rejections. It was agreed that claims 2 and 4 would be amended to replace the reproduced X-ray diffractogram and solid state ^{13}C NMR spectrum with references to the corresponding Figures in the specification, and also that the term "substantially" could be put back into claims 2 and 4 as amended. It was agreed that claims 6 and 16 would be cancelled in the present amendment, but that Applicants would consider filing a Declaration providing data relating to stability of Form V in pharmaceutical compositions.

Applicants greatly appreciate the opportunity afforded by the Examiner to interview this application in person.

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II. Conclusion


Based on the claim amendment herein, and the remarks above, Applicants respectfully believe that the pending claims are now in condition for allowance.

Should any fees be required for the submission of this response, please charge such fees to Kenyon & Kenyon, LLP Deposit Account No. 11-0600.

Respectfully Submitted,

Dated: May 9, 2008

By:


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